



1 the testimony heard and exhibits examined, the Board makes these

2 FINDINGS OF FACT

3 I

4 Appellant Hospital Central is a laundry located at 1300 East  
5 Columbia in Seattle and operated by six of the city's hospitals. It  
6 is the largest hospital laundry in the state providing services for  
7 approximately 2,300 beds. The massive cleaning operation produces a  
8 huge quantity of lint--enough to fill fourteen or fifteen gallon drums  
9 per day.

10 II

11 Respondent PSAPCA is a municipal corporation with the  
12 responsibility for conducting a program of air pollution prevention  
13 and control in a multi-county area which includes the site of  
14 appellant's laundry.

15 PSAPCA, pursuant to RCW 43.21B.260 has filed with this Board a  
16 certified copy of its Regulation I (and all amendments thereto) which  
17 is noticed.

18 III

19 On the morning of September 17, 1984, PSAPCA's inspector  
20 investigated a telephoned fallout complaint at the residence of David  
21 Holt, 824-13th Avenue in Seattle. At this residence, the inspector  
22 observed that the lawn was sprinkled with a layer of white lint  
23 particles and took photographs showing this. The appellant laundry is  
24 south of and adjacent to the Holt property.

25 The inspector also observed lint particle deposits on other

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1 residential lawns up to a block and a half away.

2 IV

3 The inspector talked to Mr. and Mrs. Holt, who thereupon signed a  
4 formal complaint form. The complaint stated that on September 16,  
5 1984, lint from the roof of the laundry had blown onto the Holt's  
6 house and lawn and that the effect was to detract from the appearance  
7 of the property as well as clog the gutters and leave a residue on  
8 windows. The complaint alleged that the problem was a reoccurring  
9 one. Mr. Holt subsequently executed an affidavit to similar effect,  
10 asserting at least five such lint fallout events since 1981.

11 At the hearing, Mr. Holt testified that the September 16 event was  
12 a typical one. He described the lint on his lawn as similar to tissue  
13 paper, rakeable but with difficulty. Getting it off the roof and out  
14 of the gutters, he stated, is a lot of work, especially if it rains  
15 before the cleanup can be completed. Rain packs the lint down and  
16 makes it even harder to clean up.

17 Mr. Holt noted that the laundry has on several occasions sent  
18 rakers to his house, but expressed dissatisfaction with the repetition  
19 of the fallout.

20 V

21 After talking to the Holts, PSAPCA's inspector went to the  
22 laundry, contacted Paul Berger, the general manager, and issued him a  
23 notice of violation.

24 While at the laundry, the inspector looked at the lint control  
25 system on the roof and observed that the size distribution and color

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1 and composition of lint lying on the roof were similar to that he ha.  
2 observed on the Holt's lawn.

3 VI

4 Notice and Order of Civil Penalty No. 6176 was sent to appellant  
5 and received on November 23, 1984. The document assessed a penalty of  
6 \$1,000 for allegedly violating PSAPCA Regulation I, Section 9.11(A).  
7 From this, Hospital Central appealed on December 10, 1984.

8 VII

9 Appellant did not dispute that the lint on the Holt's property  
10 came from its laundry, and we find that it did. A light breeze was  
11 blowing to the north. No other likely sources of lint were identified.

12 VIII

13 We further find that the lint deposited on September 16, 1985,  
14 remained on the Holt's property on the following day, September 17,  
15 1985, and that the presence of the lint in the quantity and of the  
16 characteristics deposited was a substantial annoyance and  
17 inconvenience.

18 IX

19 Appellant's general manager, Mr. Berger, provided a history of  
20 lint control efforts at the laundry. Until 1981, a system involving a  
21 cyclone and the wetting down of lint with water was used. This worked  
22 well for the control of lint, but was both very noisy and a high  
23 consumer of energy.

24 In 1981, new equipment was installed on advice of the federal  
25 Department of Energy which, through grant funds, participated in

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1 paying for its installation. The new system is a dry system by which  
2 lint from the laundry's dryers is carried in hot air to filters  
3 installed on the laundry's roof. The hot air is recirculated, but the  
4 lint is trapped on the filters. A computerized signal triggers  
5 periodic air blasts to clean the filters, shaking the lint off into  
6 drums.

7 X

8 During the post-installation period for the new equipment in 1981  
9 and 1982, there were a number of problems with the system which led to  
10 lint fallout events. These problems, however, were solved and the  
11 system worked well for several years.

12 Then in the spring of 1984, the laundry learned of some new  
13 filters on the market, represented as an improvement over the  
14 originally-installed stainless steel variety which over time were  
15 known to deteriorate from metal fatigue. The new filters were made of  
16 a nylon material similar to that used in parachutes. The laundry  
17 switched to these fabric filters and, after doing so, again  
18 experienced some lint problems while maintenance procedures were being  
19 worked out.

20 XI

21 The roof units are emptied twice a day. Lint is collected and  
22 removed in large plastic bags. Occasionally one of these gets dropped  
23 or torn and lint escapes. Otherwise, the only likely cause of lint  
24 escaping is for a filter to tear. This is what caused the fallout  
25 which occurred on August 16, 1984.

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XII

Nonetheless, the system is considered a state of the art control device. If operating properly, less than 1% of the total lint generated leaks from the system onto the roof. The laundry sends someone to sweep the roof weekly and, normally, this satisfactorily disposes of any fugitive lint.

XIII

Mr. Berger testified that problems with the new filters have now been ironed out and that a preventive maintenance program involving frequent visual inspection is in effect. He believes that this program comes as close as possible to preventing future fallout occurrences.

XIV

PSAPCA introduced evidence of past enforcement actions against Hospital Central. The agency's record shows a total of four civil penalties issued for lint problems--twice in 1981 and one in early 1982. None of these penalties were appealed.

XV

Any Conclusion of Law which is deemed a Finding of Fact is hereby adopted as such.

From these Findings of Fact the Board comes to these

CONCLUSIONS OF LAW

I

The Board has jurisdiction over these parties and these matters. Chapters 43.21B and 70.94 RCW.

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II

PSAPCA Regulation I, Section 9.11(a) states:

It shall be unlawful for any person to cause or allow the emission of any air contaminant in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with the enjoyment of life and property.

III

We conclude that emissions of lint allowed by Hospital Central Services Association, had such effects on persons and property on September 17, 1984, as to unreasonably interfere with the enjoyment of life and property in violation of Section 9.11(a).

IV

The notice of penalty at issue asserts violations of both Section 9.11(a) and WAC 173-400-040(5). Since we decide that Section 9.11(a) was violated, we need not consider WAC 173-400-040(5).

Section 3.29 of Regulation I has been amended to provide a maximum civil penalty of \$1,000. This amendment was adopted on May 10, 1984, and was in effect when the violation at issue occurred and when the penalty relating to it was imposed.

VI

The Washington Clean Air Act, chapter 70.94 RCW, is a strict liability statute. Explanations do not operate to excuse violations of regulations adopted under its authority. Air contaminant sources are required to conform to such regulations.

However, the surrounding facts and circumstances are relevant to

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1 assessing the propriety of the amount of a civil penalty. Factor.  
2 bearing on reasonableness must be considered. These include:

- 3 (a) the nature of the violation;
- 4 (b) the prior behavior of the violator; and
- 5 (c) actions taken to solve the problem.

6 See Puget Chemco, Inc. v. PSAPCA, PCHB No. 84-245, et al.

7 VII

8 The violation in this case caused nuisance--like effects, but no  
9 demonstrated harm to health or the environment resulted. The prior  
10 behavior of the violator demonstrates an interest in effective  
11 pollution control and continuing efforts to achieve it. The violation  
12 at issue prompted new procedures designed to prevent a recurrence.

13 On the entire record before us, we conclude that the penalty  
14 imposed in this instance is excessive. Among the objects of the civil  
15 penalty are the changing of behavior in the specific case and the  
16 securing of compliance generally. These aims would be adequately  
17 served by the imposition of a lesser fine.

18 VIII

19 Any Finding of Fact which is deemed a Conclusion of Law is hereby  
20 adopted as such.

21 From these Conclusions of Law the Board enters this  
22  
23  
24  
25

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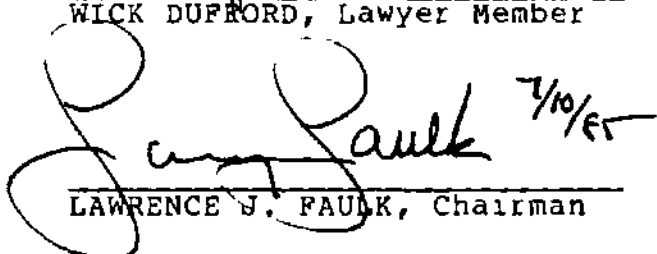
ORDER

Notice and Order of Civil Penalty No. 6176, issued by PSAPCA to Hospital Central Services Association is affirmed in the amount of \$500; \$500 of the penalty is vacated.

Done this 10th day of July, 1985.

POLLUTION CONTROL HEARINGS BOARD

  
WICK DUFFORD, Lawyer Member

 7/10/85  
LAWRENCE J. FAULK, Chairman

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